

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION**

**IN RE:**

**KAREN ELISABETH ROTH,  
  
DEBTOR**

**CHAPTER 13  
CASE NO. 11-80336**

**ADDRESS: 105 DIXIE LANE  
CHAPEL HILL, NC 27514**

**SOCIAL SECURITY NO: XXX-XX-8184**

**OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**

NOW COMES, DT Acceptance Corp. a Drive Time Company ("Drive Time"), by and through counsel pursuant to 11 U.S.C. §1325, and objects to confirmation of Debtor's Chapter 13 plan, and in support thereof shows to the Court the following:

1. Debtor filed the Chapter 13 case in question on February 24, 2011.
2. On November 5, 2010, Debtor entered into a Simple Interest Retail Installment Contract ("Retail Contract") for the purchase of a 2006 Nissan Sentra, Vehicle Identification Number 3N1CB51D46L607958 ("Motor Vehicle"). Pursuant to the terms of the Retail Contract, Drive Time is the secured creditor of the Motor Vehicle. Attached hereto as Exhibit "A" and incorporated by reference herein is a copy of the Retail Contract.
3. Drive Time is the first lienholder of the Motor Vehicle as indicated on the Certificate of Title. Attached hereto as Exhibit "B" and incorporated herein by reference is a copy of the Certificate of Title
4. Confirmation should be denied pursuant to 11 U.S.C. §1325(a) because Debtors' plan is not proposed in good faith as to Drive Time and Drive Time as a secured creditor does not accept the plan for the following reasons:
  5. The payoff balance owed to Drive Time is \$15,602.10.
  6. Debtor's Notice of Proposed Order Confirming Plan proposes to secure Drive Time for only \$15,252.97.
  7. Debtor filed bankruptcy post October 17, 2005, and are subject to the provisions of the BAPCPA. The debt Debtor owes Drive Time was incurred within 910 days of the petition date. The Motor Vehicle is a vehicle (as defined in 49 U.S.C. §30102) acquired for personal use by Debtor.

8. The Plan fails to meet the requirements of 11 U.S.C. §1325(a)(1), 11 U.S.C. §1324(a)(5), and the hanging paragraph following 11 U.S.C. §1325(a)(9), in that it does not provide for full payment of Drive Time's 910-days secured claim.

9. Drive Time should be secured for the payoff of \$15,252.97 with interest at the trustee rate and preconfirmation adequate protection payments of not less than \$152.52 per month.

10. Confirmation should be denied pursuant to 11 U.S.C. §1325(a) because Debtor's plan is not proposed in good faith as to Drive Time and Drive Time as a secured creditor does not accept the plan.

11. Debtor paid \$800.00 cash down payment on the date of the Retail Contract. On the first payment due date of November 20, 2010, Debtor paid \$892.11. Since that first due date, Debtor has made no payments. Drive Time seeks to be paid interest at the retail contract rate.

WHEREFORE, DT Acceptance Corp. a Drive Time Company prays that the Court deny confirmation of Debtor's Chapter 13 plan. In the alternative, should the Court agree to confirm the plan, Drive Time requests that the Court order Debtor to secure Drive Time for \$15,252.97 with interest at the retail contract rate. Drive Time further requests preconfirmation adequate protection payments in the amount of not less than \$152.52 per month.

DATED: May 10, 2011

CHRISTOPHER LEWIS WHITE, P.A.

/s/Christopher Lewis White

Christopher Lewis White

Attorney for DT Acceptance Corp. a Drive Time Company

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that on this date the foregoing Objection to Confirmation of Chapter 13 Plan was served by U.S. Postal Service, first class mail as follows:

Karen Elisabeth Roth  
105 Dixie Lane  
Chapel Hill, NC 27514

Richard M. Hutson, II  
Chapter 13 Trustee  
P.O. Box 3613  
Durham, NC 27702

John T. Orcutt  
Attorney at Law  
6616 Six Forks Road, Suite 203  
Raleigh, NC 27615

DATED: May 10, 2011

CHRISTOPHER LEWIS WHITE, P.A.

/s/Christopher Lewis White  
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